

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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CALVIN KING,

Case No. 10-CV-1815 (PJS/JSM)

Petitioner,

v.

ORDER

STATE OF MINNESOTA,

Respondent.

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Calvin King, petitioner pro se.

Petitioner Calvin King has filed a petition for habeas corpus pursuant to 28 U.S.C. § 2254. This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Janie S. Mayeron filed on April 30, 2010. Judge Mayeron recommends dismissing King’s petition without prejudice as a “mixed” petition containing both exhausted and unexhausted claims. *See Rose v. Lundy*, 455 U.S. 509, 510 (1982). But Judge Mayeron also gave King the option of avoiding dismissal by abandoning his unexhausted claim and proceeding with only his exhausted claims. R&R at 6. King has chosen to exercise that option by filing an amended petition abandoning his unexhausted claim. Docket No. 6. Accordingly, the Court adopts the R&R [Docket No. 4] insofar as it recommends allowing King to abandon his unexhausted claim and proceed on his exhausted claims. This case is remanded to Judge Mayeron for further proceedings.

SO ORDERED.

Dated: May 11, 2010

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge